

Message Text

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ACTION L-03

INFO OCT-01 EA-07 ISO-00 EB-07 COME-00 JUSE-00 CIAE-00

DODE-00 PM-04 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 TRSE-00 SEC-01 /062 W

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P 060845Z MAY 76

FM AMEMBASSY TAIPEI

TO SECSTATE WASHDC PRIORITY 9412

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FOR L/PM

E.O. 11652: N/A

TAGS: PGOV, PFOR, TW

SUBJECT: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD:

FOREIGN LAWS ON QUESTIONABLE PAYMENTS

REF: STATE 094647, TAIPEI 2858

1. FOLLOWING ANSWERS ARE PROVIDED IN RESPONSE TO QUESTIONS ASKED
IN FIRST REFTEL: PARA 2.A. - YES, PARA 2.B. - YES, PARA 2.C. - YES,
PARA 2.F. - UNKNOWN. PARAS 2.D. AND 2.E. ARE NOT APPLICABLE, AS
INDICATED IN SECOND REFTEL.

2. CRIMES OF CORRUPTION AND BRIBERY ARE GOVERNED BY THE STATUTE
FOR PUNISHMENT OF CORRUPTION DURING THE PERIOD OF COMMUNIST
REBELLION, OF JULY 15, 1963. IN CASES OF CONFLICT WITH THE ROC
CRIMINAL CODE, THE STATUTE WILL TAKE PRECEDENCE. HOWEVER, IF
THE AMOUNT INVOLVED IS LESS THAN NT 9,000 US\$237), THE CRIME
IS CONSIDERED A MISDEMEANOR AND COURTS ARE EMPOWERED TO IMPOSE
LESSER PENALTIES THAN THE STATUTE PROVIDES.

3. IN ARTICLE 4 OF THE STATUTE IT IS STATED THAT "ANY PERSON
WHO PERPETRATES ONE OF THE CRIMES SET FORTH HEREUNDER SHALL BE
SENTENCED TO DEATH, LIFE IMPRISONMENT, OR IMPRISONMENT FOR NOT
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LESS THAN 10 YEARS; IN ADDITION THERETO, A FINE OF NOT MORE

THAN NT 300,000 (US\$7,895) MAY BE IMPOSED ON A PERSON SENTENCED TO LIFE IMPRISONMENT OR IMPRISONMENT FOR NOT LESS THAN 10 YEARS." THE CRIMES LISTED IN ARTICLE 4 ARE AS FOLLOWS: TO SELL UNLAWFULLY, MISAPPROPRIATE OR STEAL PUBLIC MATERIALS AND PROPERTY; TO SELL UNLAWFULLY, MISAPPROPRIATE OR STEAL PUBLIC FOODSTUFFS; TO EXTORT, REQUISITION, OCCUPY OR LEVY PROPERTY FORCIBLY BY MEANS OF HIS OFFICIAL POSITION OR UNDER ANY PRETEXT; TO FALSELY REPORT PRICES AND QUANTITIES, RECEIVE KICKBACKS OR COMMIT OTHER IRREGULARITIES IN HANDLING CONSTRUCTION OR PUBLIC ENGINEERING PROJECTS OR PURCHASING MATERIALS AND ARTICLES FOR PUBLIC USE; TO TRANSPORT CONTRABAND; TO DEMAND, AGREE TO ACCEPT, OR ACCEPT A BRIBE OR OTHER IMPROPER BENEFIT IN BREACH OF HIS OFFICIAL DUTIES.

4. ARTICLE 5 OF THE STATUTE READS AS FOLLOWS: "ANY PERSON WHO PERPETRATES ONE OF THE FOLLOWING ACTS SHALL BE SENTENCED TO LIFE IMPRISONMENT OR IMPRISONMENT FOR NOT LESS THAN 7 YEARS AND A FINE OF NOT MORE THAN NT50,000 (US\$1316) MAY ALSO BE IMPOSED: TO DRAW OR WITHHOLD PUBLIC MONEY WITHOUT AUTHORITY, OR LEVY TAXES OR FLOAT PUBLIC BONDS, IN VIOLATION OF STATUTES AND ORDINANCES, WITH THE INTENT TO ACHIEVE PERSONAL GAIN; TO FRAUDULENTLY ACQUIRE PROPERTY BY TAKING ADVANTAGES OF THE OPPORTUNITIES ARISING FROM HIS PUBLIC OFFICE; TO DEMAND OR AGREE TO ACCEPT A BRIBE OR OTHER IMPROPER BENEFIT FOR AN OFFICIAL ACT."

5. AS MENTIONED, THE COURTS MAY, IN CERTAIN CASES, APPLY LIGHTER PUNISHMENTS THAN THOSE CONTAINED IN THE STATUTE. IN THIS REGARD, IN ARTICLE 121 OF THE CRIMINAL CODE IT IS STIPULATED THAT A PUBLIC OFFICIAL WHO DEMANDS, AGREES TO ACCEPT, OR ACCEPTS A BRIBE OR OTHER IMPROPER BENEFIT FOR AN OFFICIAL ACT SHALL BE PUNISHED WITH IMPRISONMENT FOR NOT MORE THAN 7 YEARS; IN ADDITION, A FINE OF NOT MORE THAN NT15,000 (US\$400) MAY BE IMPOSED. IN ARTICLE 122 OF THE CODE IT IS STATED THAT A PUBLIC OFFICIAL WHO DEMANDS, AGREES TO ACCEPT OR ACCEPTS A BRIBE OR OTHER IMPROPER BENEFIT FOR A BREACH OF HIS OFFICIAL DUTIES SHALL BE PUNISHED WITH IMPRISONMENT FOR NOT LESS THAN THREE AND NOT MORE THAN TEN YEARS. IN ADDITION, A FINE OF UP TO NT21,000 (US\$533) MAY BE IMPOSED. ALSO, A PERSON WHO OFFERS, PROMISES OR GIVES A BRIBE TO A PUBLIC OFFICIAL SHALL BE PUNISHED WITH IMPRISONMENT OF NOT MORE THAN 3 YEARS AND A FINE OF NT9,000 (US\$237). THE LIMITED OFFICIAL USE

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SENTENCE MAY BE REDUCED IF THE PERSON VOLUNTARILY TURNS HIMSELF IN.

6. WITH REGARD TO THE LEGAL RESPONSIBILITY OF CIVIL SERVANTS, ARTICLES 16 AND 18 OF THE STATUTE GOVERNING CIVIL SERVANTS PROVIDE THAT CIVIL SERVANTS IN THE CONDUCT OF THEIR OFFICIAL BUSINESS MAY NOT ACCEPT A GIFT OR ENTERTAINMENT. ADMINISTRATIVE MEASURES, E.G., LEAVE WITHOUT PAY, FOR PUNISHING CIVIL SERVANTS

WHO DO ACCEPT GIFTS OR ENTERTAINMENT ARE CONTAINED IN THE
STATUTE GOVERNING THE PUNISHMENT OF CIVIL SERVANTS.

7. THERE ARE ALSO NUMEROUS ADMINISTRATIVE REGULATIONS REGULATING
THE CONDUCT OF CIVIL SERVANTS. ON DECEMBER 15, 1969 THE
EXECUTIVE YUAN PROMULGATED A REGULATION PROHIBITING GOVERNMENT
EMPLOYEES FROM RECEIVING MONETARY REWARDS, GIFTS, ENTERTAINMENT,
PREFERENTIAL TREATMENT IN TRADE, FINANCING OR OTHER BENEFITS
DIRECTLY OR INDIRECTLY FROM AN ENTITY OR INDIVIDUAL DIRECTLY
OR INDIRECTLY UNDER THE JURISDICTION OF THE AGENCY OF WHICH THE
CIVIL SERVANT IS AN EMPLOYEE, ANY ENTITY WHICH HAS FINANCIAL
DEALINGS WITH THE CIVIL SERVANT'S AGENCY, AND ANY ENTITY WHICH
HAS CONTRACTUAL ARRANGEMENTS WITH OR SELLS TO THE
AGENCY OF WHICH A CIVIL SERVANT IS AN EMPLOYEE. HOWEVER, THE
RECEIPT OF SOUVENIRS OR GIFTS WITH LITTLE FINANCIAL VALUE
WHICH ARE IN THE NATURE OF ADVERTISEMENTS MAY BE ACCEPTED
PROVIDED THAT THE EMPLOYEE REPORTS SUCH GIFTS AND SOUVENIRS TO
HIS SUPERVISOR. CIVIL SERVANTS MAY ALSO ACCEPT LUNCH OR DINNER
INVITATIONS ON APPROPRIATE OCCASIONS.

8. COPIES OF THE FOLLOWING STATUTES AND REGULATIONS ARE BEING
POUCHED TO L/PM: STATUTE FOR PUNISHMENT OF CORRUPTION DURING
THE PERIOD OF COMMUNIST REBELLION ARTICLES 121 AND 122 OF THE
CRIMINAL CODE, STATUTE GOVERNING CIVIL SERVANTS, RULES GOVERNING
THE PUNISHMENT OF CIVIL SERVANTS, AND MEASURES FOR
PROHIBITING CIVIL SERVANTS FROM RECEIVING GIFTS AND ACCEPTING
ENTERTAINMENT. LEGAL EXPERTS ARE CHECKING ON POSSIBLE LAWS AND
REGULATIONS COVERING PRACTICES IN PARA 2.F. RESULTS WILL BE
SUBMITTED WHEN RECEIVED. POPPLE

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